BRITISH COLUMBIA Ministry of Attorney General

CRIMINAL JUSTICE BRANCH

Annual Report 2003 – 2004

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Overview

Message from the Assistant Deputy Attorney General

With the Criminal Justice Branch reaching its 30th anniversary, we can be proud of our achievement in serving the public. Over the past year, we have continued to manage our resources responsibly, meeting our budget reduction targets and positioning ourselves well to meet them in the future. I personally wish to thank all Branch personnel for their extraordinary efforts to meet these challenging targets while maintaining a high quality of professionalism.

Under the focus of our Performance Plan and with the assistance of many of you who have served on Branch subcommittees, we have significantly improved our policies, actively contributed to the Justice Reform Task Force initiative, moved forward with our Litigation Management System to a stage where we are planning to pilot "Ringtail" — a software program as part of a Criminal Justice Branch litigation solution, while continuing to manage the ever increasingly complex caseloads we face.

By encouraging innovation, the Branch can harvest the rewards of new processes to help us manage in an ever-changing work environment. This leadership role requires an ongoing commitment to managing changes and to taking advantage of opportunities created by those changes.

For those long-serving employees who have retired this year from the Criminal Justice Branch, I thank them for their years of dedication and service. A special mention goes to Hal Yacowar, Q.C., whose wisdom and support will be personally missed by me.

I would like to thank the many people who worked at producing our second annual report, with many thanks to Heather Smart for her outstanding effort in overseeing this process.

In closing, on behalf of the Branch, I would like to thank you all for your extraordinary commitment and dedication to public service without which our continued effectiveness could not be maintained.

Robert W.G. Gillen, Q.C.
Assistant Deputy Attorney General
Criminal Justice Branch

History of the Criminal Justice Branch

Happy 30th Anniversary, Criminal Justice Branch! Three decades ago, the branch was created following the provincial government decision that the administration of justice should be regarded as an integrated system.

Prior to April 1, 1974, prosecutions in many Provincial Courts including Vancouver, Victoria, Kelowna, Kamloops, and Prince George were conducted by lawyers hired by the municipalities. In many other locations in the province, Provincial Court prosecutions were conducted by police prosecutors, or the police determined when a lawyer was necessary in Provincial Court and made arrangements to have someone retained. Cases in the County and Supreme Courts were conducted by lawyers, usually from the private Bar, who were specifically retained by the then Director of Criminal Law to prosecute the assize or session. All reports on the outcomes of cases prosecuted in County or Supreme Court were given to the Director of Criminal Law.

On April 1, 1974, the inauguration of the Criminal Justice Branch provided for a decentralized prosecution service, and proceeded to apply consistent prosecution standards throughout the province.

The branch was first divided into 13 regions but was later reduced to five regions plus the Criminal Appeals and Special Prosecutions Unit (CASP) and Headquarters.

In the late 1970s and early 1980s, a Crown counsel pre-charge approval process evolved with a two-part standard: Is there a substantial likelihood of conviction and, if so, is a prosecution required in the public interest?

In June 1991, following the Discretion to Prosecute Inquiry by Inquiry Commissioner Stephen Owen in 1990, the provincial government passed the *Crown Counsel Act*. The act sets out the functions and responsibilities of Crown counsel, the branch and the Assistant Deputy Attorney General, and addresses the relationship between the Attorney General and the branch.

Today, the Criminal Justice Branch has 744[1] full-time equivalent positions in 39[2] office locations across the province, employing 409 Crown counsel and 337 administrative staff.

1 Includes Air India FTEs.

2 This includes Headquarters, CASP, Crown Offices with Vancouver Youth and Supreme as separate offices.

Mandate of the Criminal Justice Branch

The *Crown Counsel Act* affords significant independence to the branch and, at the same time, balances that independence with accountability.

The mandate of the branch is set out in section 2 of the *Crown Counsel Act*, where it states:

> The Branch has the following functions and responsibilities:
>
> (a) to approve and conduct, on behalf of the Crown, all prosecutions of offences in British Columbia;
>
> (b) to initiate and conduct, on behalf of the Crown, all appeals and other proceedings in respect of any prosecution of an offence in British Columbia;
>
> (c) to conduct, on behalf of the Crown, any appeal or other proceeding in respect of a prosecution of an offence, in which the Crown is named as a respondent;
>
> (d) to advise the government on all criminal law matters;
>
> (e) to develop policies and procedures in respect of the administration of criminal justice in British Columbia;
>
> (f) to provide liaison with the media and affected members of the public on all matters respecting approval and conduct of prosecutions of offences or related appeals;
>
> (g) any other function or responsibility assigned to the Branch by the Attorney General.

Section 3 of the act outlines the responsibilities of the Assistant Deputy Attorney General (ADAG):

> (1) The ADAG is charged with the administration of the Branch and with carrying out the functions and responsibilities of the Branch under section 2.
>
> (2) The ADAG is designated, for purposes of section 2 of the *Criminal Code*, as a lawful deputy of the Attorney General.

Mandate *continued...*

The responsibilities of Crown counsel are stated in section 4 of the act:

> (1) The ADAG may designate as "Crown counsel" any individual or class of individual who is lawfully entitled to practise law in British Columbia.
>
> (2) Each Crown counsel is authorized to represent the Crown before all courts in relation to the prosecution of offences.
>
> (3) Subject to the directions of the ADAG or another Crown counsel designated by the ADAG, each Crown counsel is authorized to:
>
> (a) examine all relevant information and documents and, following the examination, to approve for prosecution any offence or offences that he or she considers appropriate,
>
> (b) conduct the prosecutions approved, and
>
> (c) supervise prosecutions of offences that are being initiated or conducted by individuals who are not Crown counsel and, if the interests of justice require, to intervene and to conduct those prosecutions.
>
> (4) The Attorney General may establish an appeal process under which law enforcement officials may appeal the determination of any Crown counsel or special prosecutor not to approve a prosecution.

The *Crown Counsel Act* also governs the relationship between the branch and government through the Attorney General. It requires that directions on specific prosecutions must be in writing and published in the BC Gazette. There are analogous provisions for policy and administrative directions. The act also provides for the appointment of special prosecutors by the Assistant Deputy Attorney General when it is necessary in the public interest.

Role of Crown Counsel

The role of Crown counsel as set out in *R. v. Boucher* (1954), 110 CCC 263 (SCC) was recently endorsed in *R. v. Brown*, 2001 BCCA 14. The Court of Appeal quoted two passages from *Boucher* dealing with the special role of the prosecutor:

At 267, Mr. Justice Taschereau said:

> The position held by counsel for the Crown is not that of a lawyer in civil litigation. His functions are quasi-judicial. His duty is not so much to obtain a conviction as to assist the judge and the jury in ensuring that the fullest possible justice is done. His conduct before the Court must always be characterized by moderation and impartiality. He will have properly performed his duty and will be beyond all reproach if, eschewing any appeal to passion, and employing a dignified manner suited to his function, he presents the evidence to the jury without going beyond what it discloses.

At 270, Mr. Justice Rand said:

> It cannot be over-emphasized that the purpose of a criminal prosecution is not to obtain a conviction; it is to lay before a jury what the Crown considers to be credible evidence relevant to what is alleged to be a crime. Counsel have a duty to see that all available legal proof of the facts is presented: it should be done firmly and pressed to its legitimate strength, but it must also be done fairly. The role of prosecutor excludes any notion of winning or losing; his function is a matter of public duty than which in civil life there can be none charged with greater personal responsibility. It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings.

In *R. v. Logiacco* (1984), 11 CCC (3d) 374 (Ont CA), Mr. Justice Cory stated:

> ...[T]he role of the Crown Attorney in the administration of justice is of critical importance to the courts and to the community. The Crown prosecutor must proceed courageously in the face of threats and attempts at intimidation. He must see that all matters deserving of prosecution are brought to trial and prosecuted with diligence and dispatch. He must be industrious to ensure that all the arduous preparation has been completed before the matter is brought before the court. He must be of absolute integrity, above all suspicion of unfair compromise or favouritism. The Crown prosecutor must be a symbol of fairness, prompt to make all reasonable disclosures and yet scrupulous in attention to the welfare and safety of witnesses. Much is expected of the Crown prosecutor by the courts. The community looks upon the Crown prosecutor as a symbol of authority and as a spokesman for the community in criminal matters...

Role of Crown Counsel *continued...*

Mr. Justice Cory *continued:*

> Great trust is placed in the Crown prosecutor by the courts and by the public. Heavy obligations are imposed upon him in his quasi-judicial role. To be worthy of the trust and reliance which is placed in his office, he must conduct himself with becoming dignity and fairness.

The foregoing passages are examples of the high standards the Courts have of Crown prosecutors. The obligations of Crown counsel and the dignity expected of that office are exceptional.

Vision

The Criminal Justice Branch is committed to providing a prosecution service that:

- is effective and efficient;
- has the role of Crown counsel and the need for independent decision-making, coupled with demonstrated accountability, which is understood by members of the public and government;
- recognizes that by working closely with other justice system partners, while respecting the independent roles of each, it achieves the greatest protection for the public;
- strengthens support for the prosecution function including initiatives to better provide litigation support, professional development and training for all staff, and more effective communication across the branch;
- has an enhanced supportive workplace environment in which all people, whether Crown counsel or administrative support staff, have increased morale;
- has all staff within the branch working in a safe and productive environment;
- has roles, responsibilities and expectations of all members within the branch clarified to ensure that people are doing that for which they are responsible;
- has its goals and actions outlined in the Performance Plan appropriately; and
- promotes a culture that supports innovation and change towards the improvement of the delivery of justice.

Statement of Purpose and Principles

STATEMENT OF PURPOSE

The Criminal Justice Branch of the Ministry of Attorney General is a key component of British Columbia's criminal justice system. Our purpose is to contribute to the protection of society by preparing for and conducting prosecutions diligently and fairly, and by striving to develop the most effective methods to administer justice in our community.

STATEMENT OF PRINCIPLES

We, the members of the Criminal Justice Branch, are governed by six fundamental principles in fulfilling our purpose:

Fairness
We act with fairness and impartiality in our pursuit of justice.

Independence
We perform our public service without regard to improper influence or interference.

Rule of Law
We apply the Rule of Law consistently and diligently.

Excellence
We achieve excellence by working together and by employing our skills and knowledge in accordance with the highest ethical standards.

Attitude
We serve the public with courtesy and respect.

Commitment
People are our most valuable resource. We are dedicated to being open, honest and trustworthy and to treating one another with respect, dignity and fairness. We endeavour to recognize individual achievement, to share information, knowledge and resources, and to facilitate career advancement and educational upgrading.

Prosecutorial Environment

A range of elements, factors and challenges contribute to the overall present-day climate in which the Criminal Justice Branch delivers prosecution services.

Personal Security of Crown Counsel
Increasingly, Crown counsel receive threats to personal security from organized gang members and affiliates. Personal security services are employed to protect Crown counsel in these situations.

Public Focus
Today, Crown counsel invest significant time documenting files in the event of complaints or lawsuits.

Prosecutors spend an increasing amount of resources responding to complaints or enquiries from victims, community organizations and interest groups, the police and accused persons to the Law Society.

More and more, Crown counsel are exposed to the risk of liability in the normal performance of their jobs. For example, although acquitted of charges, people may choose to sue Crown counsel who approved charges or for conducted prosecutions.

Law suits filed against Crown counsel, while almost always found to be without merit, create added stress to the Crown's working environment. Similarly, private Informations sworn against Crown counsel, although rare, are very disconcerting to named prosecutors.

Accountability
With increasing demands for transparency and accountability, and continuing scrutiny by public interest groups, the media, police, victims and witnesses, there is an increased expectation that Crown counsel provide detailed explanations for prosecutorial decisions. Such explanations can be time-consuming given the complex legal context in which these decisions are made.

For some cases, the reasons for judgment are posted on the Web sites of the Provincial Court of British Columbia and the BC Superior Courts, particularly in instances where there is a high public interest. The public can access these judgments without cost and it also provides Crown counsel another means of assisting the public in seeking explanations for prosecution and judicial decisions.

Prosecutorial Environment *continued...*

Media and Issues Management
Local media are often demanding of Crown counsels' time although the branch Communications Counsel has alleviated some of the time expended on cases that have a provincial or national profile.

A March 2004 Ipsos-Reid survey revealed that British Columbians' perceive crime as becoming a more serious problem, particularly property crime. The survey links these public perceptions to the constant barrage of crime reported in the media, whether it be vehicle theft, home invasions, elderly women having their purses snatched or gang-related violence.

Changing Nature of Crime
The changing nature of crime creates unique challenges. Crimes involving advanced technology, identity theft and Internet fraud are on the rise. There is an increased focus on high-risk, serious, violent and repeat offenders, not only in British Columbia but across the country. Organized crime and gang violence are gaining prominence. On the horizon, it is likely that with an increase in the number of methamphetamine laboratories, there will be an increase in criminal related activity.

Mega Cases
The Criminal Justice Branch continues to work closely with its justice system partners, in British Columbia and across Canada, towards the effective management of mega cases.

British Columbia, like other jurisdictions, is encountering increasingly complicated criminal cases. The largest cases, such as *R. v. Bagri and Malik* (Air India) and the upcoming *R. v. Slobogian and Biller* (Eron Mortgage) and *R. v. Pickton* trials, present daunting administrative challenges. These mega cases take years to prepare and complete. They include a high volume of complex evidence; a vast number of documents to process; multiple accused persons and/or multiple victims; many lawyers; special security, technological, witness and victim requirements; the disclosure of documents involving state secrets that present balancing the right of the accused and safety of informants and witnesses in state protection programs; and a higher than usual public profile. Because of these factors, prosecuting mega cases is extremely expensive, both in human and financial terms.

Lengthy mega cases include the difficulty of guaranteeing the continued presence of jurors or judges, and the possibility of prosecutorial burn-out if resources are limited.

Organized Crime

The influence of organized crime in the province has never been greater. Organized crime controls a significant portion of British Columbia's $6 billion marijuana industry, has infiltrated the nation's ports, and is involved in the drug and sex trade. Their criminal activities span provincial and national borders.

The use of advanced technology and communication processes have made it more likely that a larger number of people will be involved in carrying out numerous criminal transactions. Therefore, the investigation and prosecution of such cases is more difficult, costly and time-consuming, and often fall under the description of "mega cases."

In addition to legal and logistical issues, the prosecution of organized crime cases and mega cases requires an increased focus on the security and safety of Crown counsel, their families, witnesses and associated people.

Length and Complexity of Trials and Sentencing Proceedings

Preparation time for and conduct of trials as well as sentencing matters are becoming lengthier, more complex. Enacted new legislation introduced additional factors to the sentencing process. These include conditional sentences, DNA applications, restorative justice options and victim involvement.

Changes in the Law

The law is developing very rapidly, particularly cases under the *Charter of Rights and Freedoms*. There are challenges in keeping up to date on case law developments. Further, the complexity of cases and the impact of the *Charter* means that legal and evidentiary issues arising during the course of a trial are compounded, require much more research, and take substantially more court time to litigate. The developments of both legislation and case law regarding disclosure have significantly increased demands upon Crown counsel who must consider problems related to witness security, privacy and third party interests.

The September 2003 Supreme Court of Canada decision *R. v. Johnson* and its companion cases effectively raised the threshold for a dangerous offender designation, with retrospective application to offenders sentenced after August 1, 1997. Since then, approximately 25 cases have been identified for new hearings. These new hearings have impacted all regions, multiplied the work of the branch's High-Risk Offender Identification Program and created a significant drain on expenses for Crown expert witnesses.

Prosecutorial Environment *continued...*

New Legislation
Significant amendments have occurred in recent years and Crown counsel are expected to be fully familiar with changes in the law and to implement them.

Amendments include DNA databank legislation, third party records, firearms legislation, omnibus procedural amendments, new sentencing provisions, freedom of information legislation, new victims legislation, conditional sentencing, alternative measures, anti-terrorism, money-laundering and the *Youth Criminal Justice Act.*

Criminal Code amendments expected in the near future include:

- Bill C-12: Protection of children and other vulnerable persons; also amends the *Canada Evidence Act;*
- Bill C-45: Criminal liability organizations;
- Bill C-46: Capital markets fraud and evidence-gathering provisions;
- Bill C-250: Hate propaganda (adds sexual orientation); and
- Bill C-15A: changes to preliminary inquiry provisions.

Forensic Evidence
The increased availability of forensic evidence, much of it intricate, has added to the responsibilities of Crown counsel and has substantially increased both the complexity and length of trials.

Unrepresented Accused
Trials involving unrepresented accused demand more time from Crown counsel and take longer to prosecute to ensure the trial process is fair.

Victims' Needs
Supporting and meeting the needs of victims demand more time from Crown counsel.

Police Consultations
As a consequence of the rapid changes in law, coupled with the ongoing retirement of experienced officers, police often look to Crown counsel for advice and guidance in investigations.

Administrative Responsibilities
Administrative and management responsibilities have expanded markedly. More time is spent on management and administrative responsibilities including budgetary matters, best practices reviews, employee performance and development plans, personnel and facilities issues, and the development of branch and ministry service plans.

New Technology and Other Processes
While advancements in technology are helpful in the long run, there is also a steep learning curve that requires staff to take on significant computer training. A concerted effort is required to integrate technology into day-to-day operational activities.

Workforce Demographics
With an aging "baby boom" workforce, many retirements are impending and a significant turnover of employees is expected throughout the decade ahead.

Year at a Glance

The Criminal Justice Branch is taking a leading role in Canada on the prosecution of mega cases. In *R v. Bagri and Malik* (Air India), *R v. Pickton*, and *R v. Slobogian and Biller* (Eron Mortgage), the branch is using new technologies, formulating new standards for disclosure with electronic media and employing project management principles in the administration of major cases. The branch continues to share its experiences with other jurisdictions in Canada.

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In addressing the major challenges of effectively employing information technology, the **Criminal Justice Branch continues to support and direct significant resources in the development, enhancement and acquisition of technology.** This includes formulating business requirements for a litigation management system, establishing the technical interface between the JUSTIN case tracking system and the provincial police records management system (PRIME), and the ongoing development of the branch intranet.

In 2003, **professional development workshops** were conducted at two Crown counsel conferences, in April and November.

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The new *Youth Criminal Justice Act (Canada)* (YCJA) was implemented on April 1, 2003, replacing the *Young Offender Act*. **The Criminal Justice Branch played a major role in the provincial implementation of the new legislation.** Post-YCJA implementation activities concentrated on anticipating and responding to issues that emerged in light of experience with the legislation. This involved substantial interaction with youth justice partners to ensure compliance with the spirit of the legislation, and the adjustment of policy, procedures and work flow approaches.

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Employee Personal Development Plans have been developed and implemented for all staff in the branch.

The Criminal Justice Branch has reviewed 117 policies. Of those, 38 policies are now deleted from the Crown Counsel Policy Manual and 29 revised policies have been made effective (as of March 15, 2004).

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Branch Management undertook a **two-day strategic planning process** to identify and discuss significant areas impacting the branch operations and resources, and to explore potential priorities for the upcoming year.

Performance Plan

The Performance Plan outlines the focus of the Criminal Justice Branch over three years. In a change environment, the branch recognizes the need to preserve the integrity of its operations and its independence of prosecutorial discretion. Branch Management believes this is best accomplished by encouraging a common understanding of our mandate and the divergent functions in the organization that support it, together with setting clear priorities over the next few years. Therefore, the Performance Plan assists the branch in providing an effective, efficient prosecution service to the people of British Columbia, and sets the foundation for achieving priorities and allocating resources.

Accordingly, the branch is concentrating on a number of priorities involving people, prosecution support, leadership and management. An implementation framework assigns responsibilities for goals and objectives to a number of subcommittees. Significant work was accomplished over the past year by these subcommittees.

The ***Leadership Subcommittee*** coordinated a process for the Branch Management Committee (BMC) to complete 360-degree leadership development reviews. The BMC Charter was reviewed and updated to reflect new members. This subcommittee, with assistance from regional representatives, developed a regional management committee charter, which was endorsed by BMC and implemented. Leadership and management roles were identified for BMC members, and leadership competencies were adopted and incorporated into job descriptions.

The ***Performance Measures Subcommittee*** is working with representatives who develop the ministry service plan and performance measures. This includes rethinking goals and how performance measures are established. As a result of Treasury Board guidelines, performance measures are to be tied directly and linked logically to goals and objectives within the sphere of influence of the branch, and linked to those responsible for delivery. The subcommittee has developed a high-level goal for the branch and is in the process of identifying appropriate measures.

Performance at a Glance

The reported past year results are based on the Criminal Justice Branch's Performance Plan goals and objectives. Performance measures are an integral part of the branch's plan and are used to determine its progress towards achieving branch objectives.

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Significant efforts have resulted in the establishment of baselines for several key measures so they more accurately reflect the activities of the branch. These baselines will be used as guidelines to set objectives. For example, under the "Timely conduct of prosecutions," the median time to disposition from the sworn date of the first Information is 121 days, and the median time from the date of the first court appearance to disposition is 86 days.

Performance Plan *continued...*

The ***Human Resources Subcommittee*** spent a significant amount of time developing and facilitating the implementation of the Employee Performance Development Plan process throughout the branch. Training sessions were held, and guidebooks, samples, FAQs and other tools were distributed and posted on the intranet. In addition to this project, the subcommittee is finalizing a human resource plan that identifies goals and objectives. The subcommittee is also completing procedures for recognizing employees.

The ***Policy and Procedures Subcommittee*** reviewed 117 policies and 57 practice bulletins. Thirty-eight policies were deleted from the Crown Counsel Policy Manual and 29 revised policies are in effect, with more to follow.

The ***Professional Development Subcommittee*** is working on an orientation manual and a professional development and training resource guide.

The ***Workload and Resources Subcommittee*** is working on a study process to provide the branch with information that can be used to equitably allocate human resources, workload and experience. Office profiles and focus group sessions were completed and followed by a time study. The project results are being analyzed and compiled into a final report.

High Risk Offender Identification Program

As of March 31, 2004, the High Risk Offender Identification Program (HROIP) has identified, and flagged in JUSTIN, approximately 1509 individuals as being at high risk to commit violent offences, 1281 of which are active files. Of these, 97% have a history of committing sexual offences. Approximately 120 high-risk offenders are being added annually to the program database.

About 80 per cent of new files are created under the direction of Crown counsel, and about 20 per cent are identified by provincial corrections.

About 28 new cases, in which the Crown intends to seek a Dangerous Offender or Long Term Offender designation, are presently before the courts. Typically, 18 to 20 such cases are concluded each year.

Since its creation in 2000, the High Risk Offender Community Notification Advisory Program (CNAP) has resulted in a significant proportion of these additions to the HROIP. CNAP is managed by B.C. Corrections to assist in addressing the danger posed to the public when prisoners who are assessed as being at high risk to re-offend violently are released from prison without parole or probation conditions.

A committee (composed of representatives from the policing community, federal and provincial corrections services, victims services, Criminal Justice Branch headquarters and the HROIP manager) reviews each case and formulates recommendations as to whether there should be a community notification regarding the release of the offender and whether there should be an application for a recognizance under sections 810.1 or 810.2 of the *Criminal Code*. The recommendations are then conveyed to the police force of jurisdiction where the offender will be released or plans to locate after release or, in many cases, forwarded to the police of jurisdiction of the institution that the offender is being released from.

If the offender was already identified by the HROIP, the manager provides additional background information on the offender. Local Crown counsel become involved if the police decide to pursue the recognizance application.

Through JUSTIN, Crown counsel have been alerted to those individuals who have been flagged by the HROIP as soon as the Report to Crown Counsel is received for charge assessment. Crown counsel have been able to use the information available from the HROIP on bail and sentencing proceedings, whether or not a Dangerous Offender or Long Term Offender designation is eventually sought.

High Risk Offender Identification Program *continued...*

The HROIP is a resource to the RCMP, municipal police forces, and provincial and federal corrections officials. It has a national profile and shares information with other jurisdictions when individuals identified as dangerous cross provincial boundaries. Approximately 400 such offenders have been registered on CPIC at the request of the HROIP and the program continues to respond to inquiries and receives information from provincial, territorial, federal and foreign jurisdictions.

As a result of the September 2003 Supreme Court of Canada decision pertaining to court declared dangerous offenders and long term offenders (*R. v. Johnson* and its companion cases), a sizeable number of cases (as many as 25) have been identified as cases that may require new dangerous offender hearings in British Columbia.

These cases go back as far as August 1997. The new hearings require a large volume of additional, new information from federal (CSC) and provincial corrections for use by Crown and Forensic Psychiatric Services. Because of the new hearings, the workload of every Crown counsel region in the province is increased.

As of April 1, 2004, 20 cases were reopened for new dangerous offender hearings. The additional, new information that is obtained from federal and provincial corrections has impacted the High Risk Offender Identification Program, as a substantial amount of extra work and time is required to obtain and manage the information and requests for new hearings. This work is additional to the volume that already exists in the day to day operation of the High Risk Offender Identification Program.

Branch Policy Revision Project

In 2003 – 04, the Criminal Justice Branch continued with a review of 117 policies, most of which provide guidelines for the exercise of prosecutorial discretion.

Under this project, policies are being revised in a new format to highlight necessary statements of policy, as well as shortened and rewritten to provide broader, less restrictive guidelines on the exercise of prosecutorial discretion as appropriate.

Thirty-eight of the reviewed policies have been deleted from the Crown Counsel Policy Manual as no longer requiring a public statement of branch policy. As of March 15, 2004, 29 revised policies have been made effective.

Restorative Justice

The Criminal Justice Branch strongly supports the philosophy and principles of restorative justice. By involving the offender, victims and the community, the offender is held accountable for criminal behaviour while seeking to make amends for the harm done. In appropriate cases, the results may be more meaningful than those available in the traditional justice system.

The branch is particularly supportive of Aboriginal programs that are based in part on traditional values and customs. CJB encourages programs that aim to reduce the over-representation of Aboriginal peoples in the criminal justice system, and assist Aboriginal communities in positively reintegrating the offender, promote reconciliation between the victim and the offender, and help restore the harmony of the community.

Currently, the branch is involved in building protocols between Crown counsel and Aboriginal restorative justice programs in interested communities for referrals from Crown counsel to the Aboriginal restorative justice committees. This work involves lengthy consultations with numerous community stakeholders and government representatives and will continue in the coming years.

Training sessions on Aboriginal restorative justice programs were held at the Crown Counsel Conference this past year.

Members of CJB continue to participate in the Aboriginal Justice Strategies Working Group. This group includes participants from a variety of provincial ministries and the federal Department of Justice. The group's purpose is to coordinate efforts and resources to Aboriginal communities.

In early April 2004, the Assistant Deputy Attorney General, along with members of the Justice Institute of British Columbia and other community leaders, travelled to New Aiyansk, Government of NISGA'A Lisims, to meet with Dr. Joseph Gosnell to discuss the use of Gladue Reports (*R. v. Gladue*) and restorative justice approaches in the justice system.

Law Reform

As part of its ongoing work, the Criminal Justice Branch advocates procedural reforms in criminal law that ensure the continuation of existing safeguards while improving delivery of criminal justice through the use of technology. The branch is active in many other law reform areas including hate crime, child pornography, Internet crime, DNA, youth justice and preliminary inquiry reform.

Spousal Assault Policy

During 2002, the Criminal Justice Branch reviewed the Crown counsel portion of the Violence Against Women in Relationships (VAWIR) Policy. This was part of a review of all policies in the branch, and is consistent with the Performance Plan and the legal principles of prosecutorial discretion.

The revised policy was announced on May 3, 2003. It is more concise and includes only policy considerations and not general contextual information.

The essential content of the VAWIR policy has been retained but the revisions allow for a slightly broader range of options at the prosecutorial stage. Although the "pro-arrest" approach by police is necessary to defuse volatile incidents, the revised policy recognizes that prosecution is not always appropriate in all cases. A more realistic range of options may be more effective to protect victims. Compelling a reluctant victim through the court process can, in some cases, re-victimize the victim.

The revised policy reflects, as the former one did, that the charge approval standard applies to spousal assault cases as to any other case. It also reaffirms the branch commitment to victim safety and introduces the use of a risk assessment instrument, which is new and unique in Canada.

The implementation of the revised policy has been smooth and there have been few issues. Since its implementation, the number of stays of proceedings entered by Crown counsel have decreased by three per cent, while the number of peace bonds have correspondingly increased by three per cent. Referrals to alternative measures programs have remained constant at one per cent.

CJB Correspondence

A variety of topics were the basis for letters and e-mails from the public during fiscal 2003/04. A substantial number focused on c hanges to the spousal assault policy, the prosecution of polygamy, judicial criticisms (usually sentencing issues), street racing plus several individual cases that caught the media spotlight.

Of the 435 responses drafted and managed by the Criminal Justice Branch Correspondence Unit last year, 257 were for the Attorney General's office and 105 were "reply direct" from the Assistant Deputy Attorney General and Regional Crown Counsels. Fifty-six responses to "Webmails" were prepared, and another 17 were either template responses for write-in campaigns or wording provided for other ministries and the premier's office.

Youth Justice

The new *Youth Criminal Justice Act* (*Canada*) was implemented on April 1, 2003, replacing the *Young Offenders Act* with far reaching, voluminous and complex new legislation. The Criminal Justice Branch played a major role in the provincial implementation of the new legislation. CJB was the only government organization that participated on the Implementation Project Management Team and all 11 working groups.

Post-YCJA implementation activities concentrated on anticipating and responding to issues that emerged in light of experience with the legislation. This included significant interaction with local Crown counsel offices and affected youth justice partners to ensure compliance with the spirit of the legislation, the adjustment of policy, procedure and workflow approaches, and the coordination of youth justice efforts with other partners.

The branch was also busy in the development of the new *Youth Justice Act* (*British Columbia*), which updates and consolidates all provincial youth justice legislation.

The Criminal Justice Branch continues to be actively involved in national youth justice forums, including participation in the Coordinating Committee of Senior Officials (Youth Justice) on the federal/provincial/territorial front and the National Crown Counsel Youth Justice Network.

Street Crime Working Group

In early March 2004, a 15-member Street Crime Working Group was initiated by the Justice Review Task Force to focus on the root causes of street crime and to recommend a new criminal justice response to address it.

A significant amount of street crime is committed by repeat offenders who are suffering from addiction, mental illness and/or other social problems. The geographical focus of the group is Vancouver's downtown eastside. Strategies and approaches developed by the group will serve as a model for other communities.

The group is seeking input from the public and experts, using a variety of methods: through public forums, by a special e-mail account, and by meeting with experts and community leaders in other North American jurisdictions who are addressing similar problems and challenges.

The working group represents a cross-section of all levels of government including the Criminal Justice Branch, the judiciary, lawyers, police, corrections and social service providers. The group will present their findings to the task force in March 2005.

Victim Impact Statement Pilot Project

A large part of work in government involves paper. We all know there is no such thing as the paperless office, as much as we use computers and other technologies to avoid producing work on paper. Invariably, we must send documents by mail and the ensuing postage can really add up.

Thanks to a bright idea from Nelson Crown Counsel Office Manager Shelley Stewart, both postage and paper costs may be significantly reduced in the near future, following the results of a pilot project that implements a two-step *Victim of Crime Act* (VOCA) contact mailing system.

The two-month pilot project began in March 2004, following research and planning that found a high percentage of Victim Impact Statements being mailed to victims of crime were not completed or returned to Crown counsel offices. Each outgoing package of information costs $1.38 for postage alone.

For the project, a first mailing (mandatory and according to obligations under the VOCA) is sent to victims at a cost of $0.49 per mail-out. Upon receipt of the package, the VOCA letter invites recipients to contact the Crown counsel office to obtain a Victim Impact Statement form, which they then complete and return to Crown counsel.

The second mailing, which includes the form and information, allows for a $0.49 postage cost so that when there are two mail-outs per individual, there is a cost savings of $0.40 per person. If individuals, upon receiving the first mail-out, decide they do not wish to submit a Victim Impact Statement, then a total of $0.89 is saved per person. Over time, this new approach could realize notable savings.

Kudos to Shelley for pursuing her outstanding idea! For the pilot, Shelley is the project manager and Janice Poetsch is the project coordinator. When the pilot is completed, they will assess collected data and report on their conclusions.

Centralized Charge Approval Pilot Project

In 2002, the Criminal Justice Branch decided to determine whether or not the charge approval standard is consistently applied throughout the province. In addition, the branch wished to examine whether the use of alternative measures and caution letters was uniform. To examine these issues, the Centralized Charge Approval Pilot Project was set up to assess consistency of the branch's work and to see if the use of a centralized model would address any of the concerns raised.

The pilot project ran from November 1, 2002, to February 28, 2003. During that period, the Centralized Charge Approval Team completed the charge assessment for all but the most serious offences, and for all of the Crown counsel offices in Region 5 (the northern region) except for the Prince George office.

The nine Crown counsel offices in Region 5 that were involved in the pilot were: Dawson Creek, Fort Nelson, Fort St. John, Prince Rupert, Quesnel, Smithers, Terrace, Vanderhoof and Williams Lake. The team consisted of three experienced Crown counsel who assessed files for 924 accused during the period of the project.

The branch has prepared its final report on the project and some of the conclusions are:

- The Centralized Charge Approval Pilot Project can be regarded as successful in that it determined that the application of a consistent charge approval standard, and a rigorous approach to alternative measures, reduces the number of charges that proceed to court.

- The result reinforces the need for Crown counsel familiarity with pertinent policies and a standardization of the expectations for Report to Crown Counsel (RTCC) contents, as well as consultation with other team members on contentious or controversial issues.

- The centralized charge approval model can be used effectively in any jurisdiction on all levels of offences if there is a recognition by the branch of the complexity and meticulous nature of the charge approval function. This function requires a team approach (consultation with colleagues) combined with the time to properly scrutinize files and to liaise with the police on charge assessment decisions and, in particular, on files which are "no charged."

- The centralized model is portable, and there could be considerable benefits to adopting it in other areas of the province. Insistence of RTCC completion, which includes local community concerns, ensures that charges can be effectively assessed at a distance or in a centralized location.

Centralized Charge Approval Pilot Project *continued...*

• Consistent charge assessment and alternative measures referrals throughout the province also assist with the harmonious transfer of files between regions for disposition.

• There was, however, considerable disagreement between Crown offices as to the benefits of this project. Some prosecutors felt strongly that the centralized model failed to adequately appreciate the local environmental factors that should be considered in the charge approval process. Such factors include, for example, local community public interest and local judicial practices.

Freedom of Information and Privacy

In the 2003/04 fiscal year, Criminal Justice Branch Freedom of Information and Privacy requests have risen by 15 per cent, which is a significant increase. Voluminous records, from what often involves multiple files and procedural changes for consultations, have resulted in a 99 per cent increase in processing time. This in turn has resulted in an increase in the extensions under the *Freedom of Information and Protection of Privacy Act*.

Technology

JUSTIN: Justice Information System

The Criminal Justice Branch, along with other justice partners, is a leader in the development of an integrated electronic justice system (JUSTIN) for criminal cases in British Columbia. Through this effort, B.C. is now one of the first jurisdictions on the continent to use the benefits of technology to coordinate all elements of the justice system.

JUSTIN has established a common, province-wide database of cases using a standard technology platform, and has replaced a number of existing case tracking systems throughout the province. Direct access to JUSTIN is provided to the RCMP, municipal police, Crown counsel, criminal courts registry staff, sheriffs, probation services, judicial trial schedulers and provincial correctional institutions. There are varying degrees of access, ranging from data entry to view only, based upon the requirement and security clearance level of the user.

In the past year, pilot projects for the interface with the Police Records Management System project (BC PRIME) commenced, and the on-line data transfer is being successfully transmitted in one location and soon to be commenced in another. In conjunction, the branch is assessing the capacity of JUSTIN to accept documents scanned by police through their records management system.

JUSTIN has been enhanced to provide the on-line management of the youth extra judicial measures and adult alternative measures programs. Referrals, recommendations and approvals for EJS/Alternative Measures plans will be sent on-line between Crown and Corrections. All Crown and corrections offices in the province will have access to the details and results of an offender's progress in the program. The branch is also participating in identifying the modifications necessary to enhance the witness module of JUSTIN, to further streamline witness management.

Preliminary discussions and initial planning are underway to enable the preparation and viewing of the Crown rota through the JUSTIN system. Initial discussions have also commenced for developing an enhanced method of on-line charge approval for Crown counsel.

JUSTIN was piloted in the Kelowna Crown counsel office in 1995, and implemented, as of July, 2001, in approximately 400 office locations, including all provincial and federal Crown offices, court registries, correctional offices and police detachments. As the use of the system grows, so does the need for enhancements and modifications to meet the needs of the branch. Work continues on reviewing and developing the enhancements that will best serve the needs of the users, the ministry and the government, and to enable British Columbia to continue to be a forerunner in the use of technology in the justice system.

JUSTIN Training Initiative

Since the implementation of JUSTIN, there have been numerous upgrades to the system and staff have not received formal, updated training. Erroneous and incomplete data, identified mainly through MIS reports, confirms the need for training in this area.

For the immediate and short-term, the branch approved a train-the-trainer initiative in fall 2003. Training material for new and existing staff was prepared and delivered to one or more staff members in each branch office. These staff members are tasked with providing updated training to all existing staff and full training sessions to all new staff prior to being provided accessed to JUSTIN. Staff trainers are also responsible for reviewing future changes to the system with employees and ensuring all JUSTIN users are advised of any procedural changes.

The JUSTIN Access and Security Committee recently released a brochure intended for all JUSTIN users, which outlines JUSTIN policy and the responsibility of users in maintaining the security and integrity of the system. The importance of this policy is being conveyed to all branch employees through information sessions and JUSTIN training.

As it is evident that a long-term JUSTIN training solution is required, CJB approved in principle the development of a Web-based training approach for JUSTIN. This approach will enable the branch to develop an initial training program, to update the program as required and to track a learner's progress. The Web-based training will enable learners to conveniently learn at their desks and will likely save costs. The development of Web-based training for JUSTIN is planned for over the next fiscal year.

Appeals Database and LiveNote

An appeals database has been established in the Criminal Appeals and Special Prosecutions (CASP) office in Vancouver. This will allow case tracking and statistics to be readily available to the branch.

Additionally, CASP is piloting the software application LiveNote for appellate work. LiveNote is a transcript management system that permits staff to look at court transcripts electronically and to incorporate all or portions of a transcript into trial preparation or presentation.

Litigation Management System Project

The Litigation Management System Project was initiated in the fall of 2001 to address the increasing number of major cases and the reality that cases are becoming larger, more complex and document-intensive. Additionally, documentation provided to the Crown from the police and others is increasingly provided in varying types of electronic formats.

The purpose of the project is to procure and implement a commercial litigation support software package that will assist Crown counsel with evidence management, and to facilitate case analysis, trial preparation and disclosure.

Detailed business requirements were developed and analysed, and a project manager was hired to manage the Request for Proposal (RFP) process to acquire a software solution. The RFP closed in February 2004. An evaluation committee was struck and conducted an extensive two-month evaluation process, and a successful software product was selected in April 2004.

Contract negotiations will soon follow as well as the necessary hardware acquisitions, the business procedure development and the pilot project.

Technology Reference Guide

A quick-flip Technology Reference Guide was developed and distributed to all staff in the Criminal Justice Branch. The guide provides detailed tips and shortcuts for using applications such as Microsoft Windows, Outlook, Word, Excel, Internet Explorer and Powerpoint plus how to access the Internet and intranet when off-site. The guide was designed with a handy fold-back stand that allows staff to refer to it as they work.

CJB Intranet Publishing Project

The Criminal Justice Branch implemented an intranet site in March 2003 to improve internal communications and to meet the Performance Plan goal of timely, concise and relevant communication. Work continues on this project to improve and enhance the intranet site. It is expected that the site will be updated during the summer of 2004 with an improved design, performance and navigation.

Branch Developments & Human Resources

Headquarters Reorganization

In late 2003, Headquarters began re-organizing into two new teams, in light of the retirement of Executive Director Hal Yacowar, Q.C., and the appointments of Richard deBoer and Geoffrey Gaul to the respective positions of Director of Policy and Legislation and Director of Legal Services.

In addition to overall responsibility for issues concerning policy and legislation, the Policy and Legislation team also retains the positions and responsibilities for the Information and Privacy program, the notification of professional bodies, the management and development of the CJB case tracking system, JUSTIN and related legal technologies projects.

The Legal Services team is responsible for providing expert legal and operational advice on a broad range of prosecutorial matters including dangerous offenders, direct indictments, contempt of court and constitutional issues. The team is also responsible for prosecutions relevant to the mandates of the Ministry of Forests; the Ministry of Water, Land and Air Protection; and those that give rise to "aboriginal rights" issues. The coordination of internal and external communications, including responses to media inquiries and ministry correspondence, rests with the Communications Unit of the Legal Services Team.

Staff Appreciation Highlights for 2003 – 04

The Criminal Justice Branch leads the way when it comes to Ministry of Attorney General employees being recognized for their valuable contributions to the public service.

All regions made excellent use of the Staff Appreciation Awards Program for the 2003 – 04 fiscal year. Awards were presented in recognition of participation in special projects such as JUSTIN and the CJB intranet, the implementation of Employee Performance and Development Plans, and the 2003 Annual Crown Counsel Conference. In addition, the branch also saw an increase of awards in recognition of employees' continued excellence in their everyday work, for their inspiring and creative ideas, and for their dedication to serving the public.

Our employees are our most valuable asset, regularly going "above and beyond" in their contributions to the workplace and the operations of the Criminal Justice Branch.

Awards, Recognition and Accomplishments

In 2003, 25-Year Service Certificates were awarded to Mary Tait, Viennese Simpson, Coreen Kerr, Louise Keller, Vonny Johnston, Sandra Cunningham, Sanford Cohen and Donald Buss.

Karen Heys, Linda Reid and Farrah LeCounte were were key fundraisers for the Provincial Employees Community Service Fund in the Vancouver area. The trio were able to raise by 46 per cent any previous fundraising (in Vancouver, Ministry of Attorney General). Their dedication and hard work earned an award for the ministry, which was accepted by CASP.

Contributions outside CASP this past year include Miriam Maisonville's work as Chair of the CBA (BC) Vancouver Criminal Section and Stephen Cooke's work as Chair of the CBA (BC) Law Week Committee. In addition, in October 2003, Michael Van Klaveren became President of the B.C. Crown Counsel Association.

Joyce DeWitt-VanOosten chaired the Festival of Trees event, which raised over $40,000 for research, patient services and new equipment at B.C. Children's Hospital. The corporate tree-decorating contest was held at the Empress during December 2003 and produced the highest total funds in recent years.

2003 Judicial & Queen's Counsel Appointments

In 2003, the Criminal Justice Branch's Anne K. Wallace and Derrill W. Prevett were appointed Queen's Counsel; Ronald Bruce Caryer, Q.C., was appointed to the Provincial Court Bench; and Bill Ehrcke, Q.C., and Lance W. Bernard were appointed to the British Columbia Supreme Court.

Professional Development

Professional development for all staff is a priority of the Criminal Justice Branch. Now, with the advent of Employee Performance and Development Plans (EPDPs), learning and development objectives are to be shared and discussed between managers and staff, ensuring further encouragement for employees to continue to hone and diversify their skills and education.

There are two conferences a year for lawyers: a conference focused on more limited topics and audiences in the fall and a spring conference for all Crown counsel. In addition, Crown counsel may use their professional development allowances to attend other pertinent courses or to acquire materials to enhance their professional skills and knowledge.

There is an annual conference for office managers, and staff may attend relevant courses or workshops that are available outside of government. All staff are encouraged to attend government-sponsored courses that will increase their on-the-job expertise and maximize their potential.

A two-day intensive Advocacy Training Workshop for junior Crown counsel was recently inaugurated. This program will run regularly, providing hands-on training to all new Crown. It is anticipated that advocacy workshops will be available for intermediate and senior Crown in the future.

The one-day training program for new Crown counsel in their first year will be expanded to three days beginning with the spring Crown counsel conference in 2005. In combination with the annual two-day spring Crown counsel conference, new Crown will have a full week of training in their first year. As well, a mentoring program and lunch-time training sessions are being supported by the branch.

Articling Student Program

Ten articling students were employed at the offices of the Criminal Justice Branch during the period of April 2003 to March 2004. Many of the students articled at both headquarters and the regions. They were: Aaron Welch, Ann Roberts, Avneet Sidhu, Elizabeth Mayer, Jeff Van Hinte, Joseph Cuenca, Kelly Wilson, Leslie Baskerville, Ros Salvador and Sonja Okada.

Facilities

Fort St. John
Additional space was acquired in anticipation of adding more support staff and Crown counsel.

Kamloops
Major renovations to the Kamloops Crown Counsel Office were completed this past year with the office now taking up the majority of the fourth floor. The project has resulted in sufficient space for all staff, meeting rooms, a break area and secure storage. The renovations have significantly improved the efficiency and effectiveness of the office.

Nelson
Following the reopening of the Grand Forks circuit court in September 2003, the Nelson Crown Counsel office began conducting criminal prosecutions in Grand Forks once again. The office also underwent minor renovations that provided staff with a larger, brighter library and increased storage space. A mobile file unit was installed to make better use of the existing area.

New Westminster
Space was acquired and renovated for the team of prosecutors and support staff working on *R. v. Pickton.*

Penticton
Planning processes have commenced and alternative locations are being viewed for the Crown Counsel Office to move out of the courthouse. This move is necessary due to space limitations as the office is presently split between the first and second floors of the courthouse.

Port Coquitlam
The filing system was upgraded and renovations to existing space have increased the storage area.

Salmon Arm
Plans are underway for the Crown Counsel Office to relocate to the new courthouse that is presently being planned for Salmon Arm.

Smithers
Extensive renovations have increased the area at the Smithers Crown Counsel Office so that staff are now working together out of one building.

Surrey
The reception areas on the second and third floors were redesigned and are now more secure and ergonomically safe.

Vernon
Renovations are near completion at the new location for the Vernon Crown Counsel Office. Staff will be moving out of the courthouse facilities and to the new office in late spring 2004.

Prosecutorial Services

The following branch operations statistical information is based on data collected from the Justice Information System (JUSTIN).

Reports to Crown Counsel Received from Police

During 2003/04, the Criminal Justice Branch received 73,159 Reports to Crown Counsel (RCCs) for review. One RCC will accuse one or more persons in relation to one or more offences.

In 2003 – 04, there was an average of 1.08 accused persons per RCC submitted to the branch. Adults comprised 89 per cent of the total accused persons, while youth made up 11 per cent of the total.

The charging decisions of the Criminal Justice Branch relate to *Criminal Code* offences and offences created by provincial legislation where the police refer the matter to Crown counsel rather than issuing a ticket. Offences under other federal legislation, such as the *Controlled Drugs and Substances Act*, are prosecuted by the federal government through the Department of Justice and are not included.

Total RCCs and Accused Received for Charge Assessment

	2001/02 (Estimate)	2002/03 (Actual)	2003/04 (Actual)
RCCs Received	**71,900**	**72,041**	**73,159**
Accused: Adults + Youth	**78,400**	**78,386**	**78,809**
Accused Adults	67,200	67,358	70,030
Accused Youth	11,200	11028	8,779

Figure 1 (Data Source: JUSTIN, April 6, 2004

Note: Estimates for fiscal year 2001/02 were based on nine months of actual data for 2001 – 02, plus the actual data for the first quarter of the fiscal year 2002 – 03, and rounded to the nearest 100 value.

Charge Assessment Decisions

If the criteria for approving a charge are met (there is a substantial likelihood of conviction and a prosecution is in the public interest) the Crown may then:

- approve charges;
- refer the matter to an alternative program (e.g. Alternative Measures) rather than institute formal court proceedings; or
- issue a formal warning rather than approve a charge (e.g. a caution letter).

If there is insufficient evidence to support charges or a prosecution is not in the public interest, Crown counsel will:

- refer the matter to the police for further investigation; or
- not approve charges (i.e. a no-charge decision).

It should be noted that at the time the following diagram was created some charge assessment decisions were pending because Crown counsel were in the process of making or recording the decision or had deferred the decision for some other reason.

Alternative Measures Referrals

During the year 2003 – 04, Crown counsel referred 4,835 accused persons (6.1 per cent of the total number of accused persons named in all the RCCs) for suitability assessments to Alternative Measures Programs. Approximately 1,973 of the referrals (41 per cent) were not successful, resulting in a return to Crown counsel for a reconsideration of charges.

Of the total number of accused persons charge-assessed by Crown counsel in 2003 – 04, 2,862 (3.6 per cent) had their matters resolved through referral to Alternative Measures Programs.

Charge Assessment Results Data

For about a year, the numbers indicated in Figure 2 will change somewhat during the normal course of the branch's business. This is because there are pending charge assessment decisions at the time of reporting as well as some initial charge assessment decisions that are revisited when:

- the police or another investigating agency submits a supplemental report to Crown counsel with the results of further investigation;
- an accused person declines, is unsuitable for or does not comply with, Alternative Measures and the matter is returned to Crown counsel; or
- the defence counsel or the accused person requests the consideration of Alternative Measures after a charge is laid.

Charge Assessment Results Data *continued...*

Accordingly, the statistics for 2003 – 04 cannot be considered final until the end of 2004 – 05 fiscal year. However, it is anticipated that any changes will not be significant enough to modify the relative percentages in each charge assessment decision result category.

CHARGE ASSESSMENT RESULTS
Number of People Suggested by Investigators for Charges

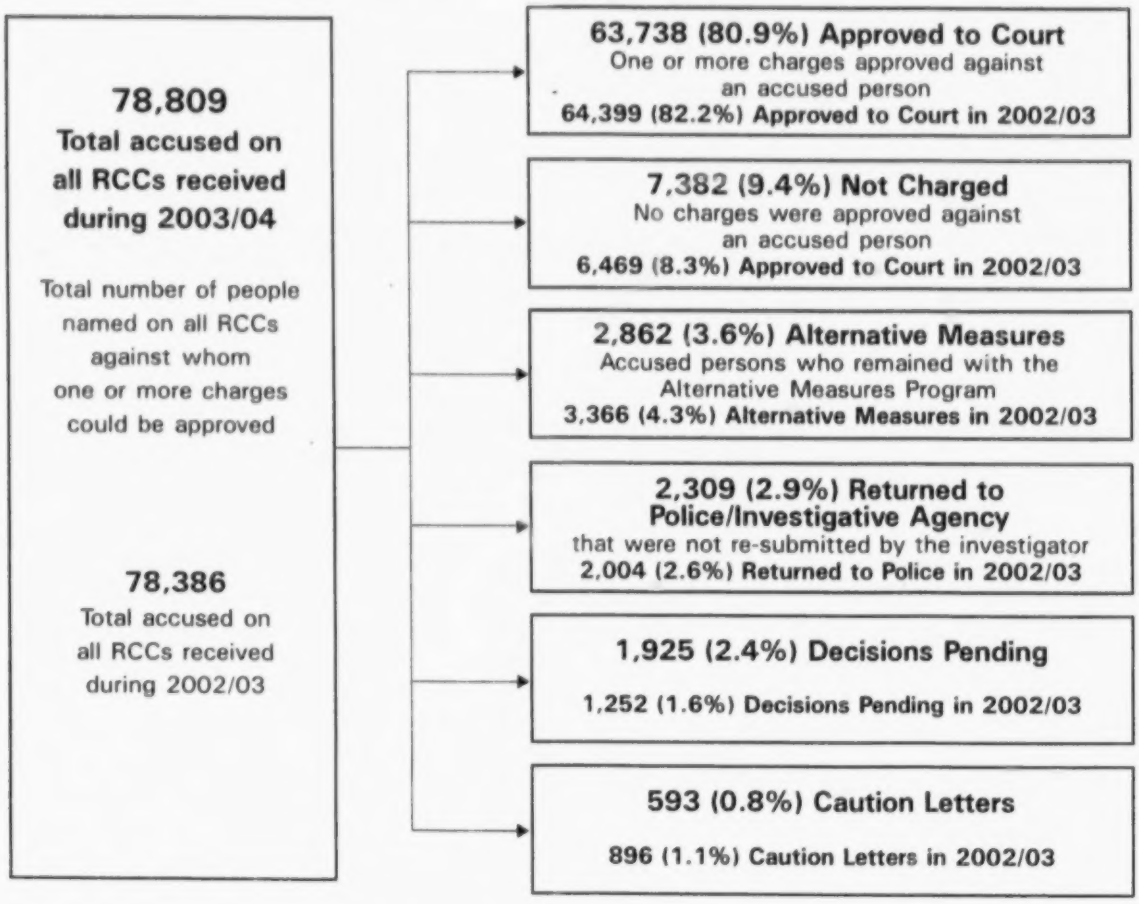
78,809
Total accused on all RCCs received during 2003/04
Total number of people named on all RCCs against whom one or more charges could be approved
78,386
Total accused on all RCCs received during 2002/03
63,738 (80.9%) Approved to Court
One or more charges approved against an accused person
64,399 (82.2%) Approved to Court in 2002/03
7,382 (9.4%) Not Charged
No charges were approved against an accused person
6,469 (8.3%) Approved to Court in 2002/03
2,862 (3.6%) Alternative Measures
Accused persons who remained with the Alternative Measures Program
3,366 (4.3%) Alternative Measures in 2002/03
2,309 (2.9%) Returned to Police/Investigative Agency
that were not re-submitted by the investigator
2,004 (2.6%) Returned to Police in 2002/03
1,925 (2.4%) Decisions Pending
1,252 (1.6%) Decisions Pending in 2002/03
593 (0.8%) Caution Letters
896 (1.1%) Caution Letters in 2002/03

Figure 2 (Data Source: JUSTIN, April 6, 2004)

Victims of Crime Act

The *Victims of Crime Act* requires Crown counsel to offer people who are victims of a crime a reasonable opportunity to provide information about how the offence has impacted them and, if there is a conviction, to present that information to the court.

Crown offices work diligently to ensure victim impact statements and information are produced when there are convictions. The Criminal Justice Branch is reviewing its business procedures in order to more accurately quantify this important prosecutorial step.

Conclusion

The use of JUSTIN provides the collection and analyses of data entered from every Crown counsel office and court location in the province concerning prosecutions in the province, except the Court of Appeal.

New and more efficient methods of extracting and analyzing the data are continually being developed to produce more reliable information that will assist the Criminal Justice Branch and its justice system partners to provide effective administration of the criminal justice system in British Columbia.

Criminal Justice Branch Financial Summary

	Fiscal 01/02	Fiscal 02/03	Fiscal 03/04	Fiscal 04/05	Fiscal 05/06
Budget	77,913,000	79,000,000	77,839,000	77,952,000	79,167,000
Expenditures	77,400,000	75,540,000	77,146,372		
Surplus (Deficit)	513,000	3,460,000	692,628		
FTE Budget	761	725	735	719	719
FTE Usage	780	711	713		
Surplus (Deficit)	-19	14	23		

Notes:

1. Expenditure amounts are rounded to the nearest thousand.
2. Budget, FTE and expenditure amounts do not include certain major prosecutions that are now before the courts.
3. The fiscal 2001/02 Criminal Justice Branch budget includes a $278,000 post-Estimates increase adjustment.
4. The branch reductions that form the three-year budget reduction targets total $8,238,589 although the reductions are offset by funding increases for items such as wage and Law Society fee increases. Reductions by fiscal are as follows:
   - Fiscal 2002/03 reduction is $3,039,658 offset by increases of $4,333,658.
   - Fiscal 2003/04 reduction is $3,455,931 offset by increases of $2,294,931.
   - Fiscal 2004/05 reduction is $1,881,000 offset by increases of $1,994,000.
   - Fiscal 2005/06 increase is $1,215,000 required for BOC, amortization and lockstep.

Appendix

CROWN COUNSEL ACT [RSBC 1996] CHAPTER 87

Section

1 Definitions
2 Functions and responsibilities of the Criminal Justice Branch
3 Assistant Deputy Attorney General
4 Responsibilities of Crown Counsel
4.1 British Columbia Crown Counsel Association Agreement
5 Directions from Attorney General on specific prosecutions
6 Policy directive from Attorney General
7 Special prosecutors
8 Delay in publication

Definitions

1. In this Act:
"ADAG" means the Assistant Deputy Attorney General, Criminal Justice Branch;
"Branch" means the Criminal Justice Branch of the Ministry of Attorney General;
"offence" means an offence
(a) under the *Criminal Code* or any other enactment of Canada with respect to which the Attorney General of British Columbia may initiate and conduct a prosecution, and
(b) under an enactment of British Columbia.

Functions and responsibilities of the Criminal Justice Branch

2. The Branch has the following functions and responsibilities:
(a) to approve and conduct, on behalf of the Crown, all prosecutions of offences in British Columbia;
(b) to initiate and conduct, on behalf of the Crown, all appeals and other proceedings in respect of any prosecution of an offence in British Columbia;
(c) to conduct, on behalf of the Crown, any appeal or other proceeding in respect of a prosecution of an offence, in which the Crown is named as a respondent;
(d) to advise the government on all criminal law matters;
(e) to develop policies and procedures in respect of the administration of criminal justice in British Columbia;
(f) to provide liaison with the media and affected members of the public on all matters respecting approval and conduct of prosecutions of offences or related appeals;
(g) any other function or responsibility assigned to the Branch by the Attorney General.

Assistant Deputy Attorney General

3. (1) The ADAG is charged with the administration of the Branch and with carrying out the functions and responsibilities of the Branch under section 2.
(2) The ADAG is designated, for purposes of section 2 of the *Criminal Code*, as a lawful deputy of the Attorney General.

Responsibilities of Crown Counsel

4. (1) The ADAG may designate as "Crown counsel" any individual or class of individual who is lawfully entitled to practise law in British Columbia.

(2) Each Crown counsel is authorized to represent the Crown before all courts in relation to the prosecution of offences.

(3) Subject to the directions of the ADAG or another Crown counsel designated by the ADAG, each Crown counsel is authorized to

(a) examine all relevant information and documents and, following the examination, to approve for prosecution any offence or offences that he or she considers appropriate,

(b) conduct the prosecutions approved, and

(c) supervise prosecutions of offences that are being initiated or conducted by individuals who are not Crown counsel and, if the interests of justice require, to intervene and to conduct those prosecutions.

(4) The Attorney General may establish an appeal process under which law enforcement officials may appeal the determination of any Crown counsel or special prosecutor not to approve a prosecution.

British Columbia Crown Counsel Association Agreement

4.1 (1) In this section:

"BCCCA" means the British Columbia Crown Counsel Association, a society incorporated under the *Society Act*;

"Crown Counsel" means an individual described in section 4 (1) who is an "employee" as defined in section 1 of the *Public Service Act* but does not include

(a) the Assistant Deputy Attorney General
(b) the Director, Special Justice Programs
(c) the Executive Director, Criminal Justice Branch
(d) the Regional Crown counsel
(e) the Deputy Regional Crown counsel
(f) the Director, Criminal Appeals
(g) the Director, Legal Services
(h)the Communications Officer
(i) the Director, Policy and Legislation
(j) the Deputy Director, Commercial Crime
(k) the Deputy Director, Criminal Appeals, and
(l) the persons in other positions specified by agreement of the employer and the BCCCA.

"employer" means the government represented by the Public Service Employee Relations Commission.

(2) The BCCCA is the exclusive bargaining agent for all Crown counsel and is authorized to enter into agreements with the employer which must include all matters affecting wages or salary, hours of work and other working conditions, except the following:

(a) the principle of merit and its application in the appointment and promotion of employees, subject to section 4 (3) of the *Public Service Act*;

(b) a matter included under the *Public Sector Pension Plans Act*;
(c) the organization, establishment or administration of the ministries and branches of the government, except the effect of reductions in establishment of employees, which must be negotiated by the parties;
(d) the application of the system of classification of positions or job evaluation under the *Public Service Act*;
(e) the procedures and methods of training or retraining of all employees not affected by section 15 of the *Public Service Labour Relations Act*, other than training programs administered with a branch or ministry that apply to one occupational group only.

(3) The employer and the BCCCA must bargain collectively in good faith and make every reasonable effort to conclude agreements referred to in subsection (2).

Directions from Attorney General on Specific Prosecutions

5. If the Attorney General or Deputy Attorney General gives the ADAG a direction with respect to the approval or conduct of any specific prosecution or appeal, that direction must be:
(a) given in writing to the ADAG, and
(b) published in the Gazette.

Policy Directive from Attorney General

6. (1) If the Attorney General or Deputy Attorney General wishes to issue a directive respecting the Criminal Justice Branch policy on the approval or conduct of prosecutions, that directive must be given in writing to the ADAG and, in the discretion of the ADAG, may be published in the Gazette.

(2) If the Attorney General or Deputy Attorney General wishes to issue a directive respecting the administration of the Branch, that directive must, if requested by the ADAG, be given in writing and may, in the discretion of the ADAG, be published in the Gazette.

Special Prosecutors

7. (1) If the ADAG considers it is in the public interest, he or she may appoint a lawyer, who is not employed in the Ministry of Attorney General, as a special prosecutor.

(2) A special prosecutor must carry out his or her mandate, as set out in writing by the ADAG, and in particular must
(a) examine all relevant information and documents and report to the ADAG with respect to the approval and conduct of any specific prosecution, and
(b) carry out any other responsibilities respecting the initiation and conduct of a specific prosecution.

(3) If the ADAG appoints a special prosecutor, the ADAG must advise the Deputy Attorney General
(a) that a special prosecutor has been appointed, and
(b) the name of the special prosecutor.

(4) If, after a special prosecutor receives the mandate under subsection (2), the Attorney General, Deputy Attorney General or ADAG gives a direction to a special prosecutor in respect of any matter within the mandate of the special prosecutor, that direction must be given in writing and be published in the Gazette.

(5) Subject to the mandate given to the special prosecutor by the ADAG or to a directive referred to in subsection (4), the decision of a special prosecutor with respect to any matter within his or her mandate is final, but a decision not to approve a prosecution may be appealed by a law enforcement officer under the process established by section 4 (4).

Delay in Publication

8. (1) The Attorney General, Deputy Attorney General or ADAG may direct publication in the Gazette of those matters referred to in section 5 or 7 be delayed if to do so would be in the interests of the administration of justice.

(2) A delay under subsection (1) must not extend beyond the completion of the prosecution or matter or any related prosecution or matter.